



PTO/SB/21 (04-04)

**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Application Number	10/035,791
Filing Date	October 18, 2001
First Named Inventor	Cole, Philip D.
Art Unit	2661
Examiner Name	Unassigned
Attorney Docket Number	010327-003300US

Total Number of Pages in This Submission

ENCLOSURES (Check all that apply)

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> Fee Transmittal Form
<input type="checkbox"/> Fee Attached
<input type="checkbox"/> Amendment/Reply
<input type="checkbox"/> After Final
<input type="checkbox"/> Affidavits/declaration(s)
<input type="checkbox"/> Extension of Time Request
<input type="checkbox"/> Express Abandonment Request
<input type="checkbox"/> Information Disclosure Statement
<input type="checkbox"/> Certified Copy of Priority Document(s)
<input type="checkbox"/> Response to Missing Parts/
Incomplete Application
<input type="checkbox"/> Response to Missing Parts
under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)
<input type="checkbox"/> Licensing-related Papers
<input checked="" type="checkbox"/> Petition
<input checked="" type="checkbox"/> Request for Correction of
Inventorship Under 37 CFR 1.48(a)
<input type="checkbox"/> Power of Attorney, Revocation
Change of Correspondence Address
<input type="checkbox"/> Terminal Disclaimer
<input type="checkbox"/> Request for Refund
<input type="checkbox"/> CD, Number of CD(s) _____ | <input type="checkbox"/> After Allowance Communication
to Technology Center (TC)
<input type="checkbox"/> Appeal Communication to Board
of Appeals and Interferences
<input type="checkbox"/> Appeal Communication to TC
(Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Status Letter
<input checked="" type="checkbox"/> Other Enclosure(s) (please
identify below):
Return Postcard |
|---|---|--|
- Remarks The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Townsend and Townsend and Crew LLP Brian N. Young	Reg. No. 48,602
Signature		
Date	July 15, 2004	

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	Marina A. Lewis		
Signature		Date	July 15, 2004

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Petition, Assistant Commissioner for Patents, Washington, D.C. 20231 on July 15, 2004.

PATENT
Attorney Docket No.: 010327-003300US

#16

TOWNSEND and TOWNSEND and CREW LLP



Marina A. Lewis

Marina A. Lewis

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

COLE, et al.

Application No.: 10/035,791

Filed: October 18, 2001

For: METHOD AND APPARATUS FOR
DISCARDING A PRIORITIZED FAIR
SHARE OF TRAFFIC OF NETWORK
CONNECTIONS

Examiner:

Art Unit: 3711

REQUEST FOR CORRECTION OF
INVENTORSHIP UNDER 37 CFR § 1.48(a)

Commissioner for Patents
Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants respectfully request that James Scott be added as an inventor to the above-identified patent application pursuant to 37 C.F.R. § 1.48(a).

As required, the following documents are submitted herewith:

1. Statement of James Scott stating that it was through error without deceptive intent that he was not named as an inventor in the above-identified patent;
2. Written Consent of Assignee Under Rule 1.48(a)(5);

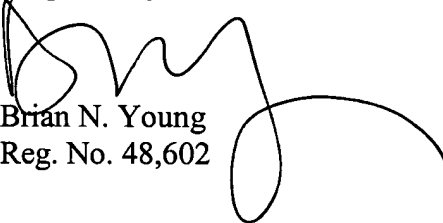
07/20/2004 SZEWDIE1 00000085 201430 10035791
01 FC:1460 130.00 DA

3. Inventor Declaration under 37 CFR 1.63 (included as Exhibit E of the attached Petition for Filing Patent Application Under 37 CFR § 1.47(a));
4. Petition for Filing Patent Application Under 37 CFR § 1.47(a):
Application by Other Joint Inventors When One Joint Inventor Refuses to Sign or Cannot be Found.

Please deduct the fee of \$130 for a Request to Correct Inventorship, pursuant to 37 CFR § 1.17(i), and the fee of \$130 for a Petition for Filing Patent Application, pursuant to 37 CFR § 1.17(h) from Deposit Account No. 20-1430 of the undersigned. Please charge any additional fees or credit overpayment to the above Deposit Account.

Dated: July 15, 2004

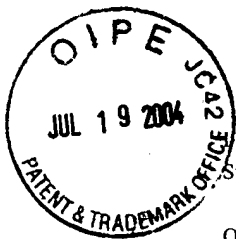
Respectfully submitted,



Brian N. Young
Reg. No. 48,602

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
Tel: (415) 576-0200
Fax: (415) 576-0300

BNY:m2l



hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

PATENT
Docket No.: 010327-003300US

On July 15, 2004

TOWNSEND and TOWNSEND and CREW LLP

By: Marina Lewis

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

COLE et al.

Application No.: 10/035,791

Filed: October 18, 2001

For: METHOD AND APPARATUS
FOR DISCARDING A PRIORITIZED
FAIR SHARE OF TRAFFIC OF
NETWORK CONNECTIONS

Examiner: Not Yet Assigned

Art Unit: 2661

STATEMENT OF INVENTOR RE
CORRECTION OF INVENTORSHIP
UNDER 37 C.F.R. §1.48

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

We state that the addition of inventor James Scott is necessitated and that the inventorship error occurred without deceptive intention.

Dated: April 8, 2003

By

James Scott



I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

PATENT
Docket No.: 010327-003300US

On July 15, 2004

TOWNSEND and TOWNSEND and CREW LLP

By: Maureen Liu

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

COLE et al.

Application No.: 10/035,791

Filed: October 18, 2001

For: METHOD AND APPARATUS
FOR DISCARDING A PRIORITIZED
FAIR SHARE OF TRAFFIC OF
NETWORK CONNECTIONS

Examiner:

Art Unit: 2661

CONSENT OF ASSIGNEE TO
CORRECTION OF INVENTORSHIP
UNDER 37 C.F.R. §1.48

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Network Equipment Technologies, Inc., the owners by assignment from inventors Philip D. Cole, Nils Ramon Marchant, Mike Reynolds and Edward G. Cavasian recorded in the U.S.P.T.O. on April 30, 2002, at reel 012860, frame0762, hereby consents to correction of the inventorship in the above-identified application to include inventor James Scott.

Network Equipment Technologies, Inc.

Dated: March 28, 2003

By: Ruth M. Vogelvang

Name: Ruth M. Vogelvang
Title: Senior Corporate Counsel
& Asst. Secretary

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Petition, Assistant Commissioner for Patents, Washington, D.C. 20231 on July 15, 2004.

PATENT
Attorney Docket No.: 010327-003300US

TOWNSEND and TOWNSEND and CREW LLP

By: 

Marina A. Lewis

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

COLE, et al.

Application No.: 10/035,791

Filed: October 18, 2001

For: METHOD AND APPARATUS FOR
DISCARDING A PRIORITIZED FAIR
SHARE OF TRAFFIC OF NETWORK
CONNECTIONS

Art Unit: 2671

DECLARATION OF NETWORK
EQUIPMENT TECHNOLOGIES, INC. IN
SUPPORT OF PETITION FOR FILING
PATENT APPLICATION UNDER 37 CFR
§ 1.47(a): APPLICATION BY OTHER
JOINT INVENTORS WHEN ONE JOINT
INVENTOR REFUSES TO SIGN OR
CANNOT BE FOUND

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

I, Divina S. Jones, declare as follows:

1. I am a Paralegal employed by Network Equipment Technologies, Inc. ("N.E.T."), the assignee of the above-referenced subject application, located at 6900 Paseo Padre Parkway, Fremont, California 94555.
2. On behalf of N.E.T., I am submitting this declaration in support of the Petition for Filing Patent Application Under 37 U.S.C. § 1.47(a) when a joint inventor refuses to sign or cannot be found.
3. The last known address of Mr. Cavasian is 160 Laurel Street, San Carlos, California, 94070.

4. In July 2003, in accordance with CFR § 1.48(a) concerning Requests to Correct Inventorship, I provided Mr. Cavasian with a Declaration under CFR § 1.63 for re-execution via e-mail at the following e-mail address: nedc@jprg.nokia.com. A response to my e-mail was not received.

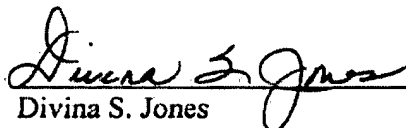
5. On October 20, 2003, I forwarded a second copy of the Section 1.63 Declaration to Mr. Cavasian at his last known address via Federal Express.

6. On October 24, 2003, I telephoned Federal Express to confirm delivery of the package to Mr. Cavasian. Federal Express stated that it was unable to deliver the package because the "addressee had moved." I asked Federal Express return the package to N.E.T.

7. On October 29, 2003, I instructed my assistant, Angela Haldemann, to make a third and final attempt to contact Mr. Cavasian in order to provide him with the Section 1.63 Declaration for his signature. The Section 1.63 declaration was sent to Mr. Cavasian though a second e-mail address ("nedc1@yahoo.com"), provided by personnel in N.E.T.'s engineering department. No response was received from Mr. Cavasian.

8. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: July 14, 2004



Divina S. Jones
Paralegal
Network Equipment Technologies, Inc.

Subject: Pat. Appln. No. 10/035,791

Date: Thu, 10 Jul 2003 17:33:44 -0700

From: Divina Jones <divina_jones@net.com>

Organization: N.E.T. <http://www.net.com>

To: nedc@jprg.nokia.com

CC: Michael Azar <michael_azar@net.com>

Dear Ned,

I'm forwarding the attached from Lisa Kaiser of Townsend Townsend and Crew, our patent lawyers. It contains a Declaration under 37 CFR 1.63 in connection with the above patent, which must be signed by all the inventors.

Please review, then print, sign and return to me at your earliest convenience. If you have any questions, don't hesitate to call me at 510.574.4095. Thanks for your help.

Best Regards,

Divina Jones
Paralegal


Subject: Our File No.: 010327-003300US - Declaration for Ed's signature.

Date: Wed, 11 Jun 2003 14:21:41 -0700

From: "Kaiser, Lisa" <lkaiser@townsend.com>

To: <divina_jones@net.com>

<<1436953v1.DOC>>

 1436953v1.DOC	Name: 1436953v1.DOC Type: WINWORD File (application/msword) Encoding: base64 Description: 1436953v1.DOC
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Subject: Our File No.: 010327-003300US - Declaration for Ed's signature.

Date: Wed, 11 Jun 2003 14:21:41 -0700

From: "Kaiser, Lisa" <lkaiser@townsend.com>

To: <divina_Jones@net.com>

<<1436953v1.DOC>>

 1436953v1.DOC	Name: 1436953v1.DOC Type: WINWORD File (application/msword) Encoding: base64 Description: 1436953v1.DOC
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**DECLARATION (37 CFR 1.63) FOR UTILITY OR DESIGN APPLICATION
USING AN APPLICATION DATA SHEET (37 CFR 1.76)**

Title of Invention	METHOD AND APPARATUS FOR DISCARDING A PRIORITIZED FAIR SHARE OF TRAFFIC OF NETWORK CONNECTIONS
---------------------------	---

As the below named inventor(s), I/we declare that:

This declaration is directed to:

- ☐ The attached application, or
- ☒ Application No. 10/035,791, filed on October 18, 2001,
- ☐ as amended on _____ (if applicable);

I/we believe that I/we am/are the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought;

I/we have reviewed and understand the contents of the above-identified application, including the claims, as amended by any amendment specifically referred to above;

I/we acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me/us to be material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT International filing date of the continuation-in-part application.

All statements made herein of my/our own knowledge are true, all statements made herein on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and may jeopardize the validity of the application or any patent issuing thereon.

FULL NAME OF INVENTOR(S)

Inventor 1 Philip D. Cole Date: _____

Signature: _____ Citizen of: Australia

Inventor 2 Nils Ramon Marchant Date: _____

Signature: _____ Citizen of: Australia

Inventor 3 Mike Reynolds Date: _____

Signature: _____ Citizen of: Australia

Inventor 4 Edward G. Cavasian Date: _____

Signature: _____ Citizen of: United States

☒ Additional inventors are being named on form(s) attached hereto.

Attorney Docket No.: 010327-03300US
Client Ref. No.:

PTO/SB/01A (10-01)

Approved for use through 10/31/2002. OMB 0851-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**DECLARATION (37 CFR 1.63) FOR UTILITY OR DESIGN APPLICATION
USING AN APPLICATION DATA SHEET (37 CFR 1.76) –
ADDITIONAL INVENTOR(S)
Supplemental Sheet
(Total of 1 forms are submitted.)**

FULL NAME OF INVENTOR(S)

Inventor 5: James Scott

Date:

Signature:

Citizen of: United States

Burden Hour Statement: This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. The information is used by the public to file (and the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 1 minute to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.
SF 1436953 v1

6900 Paseo Padre Parkway
Fremont, CA 94555

Tel 510.713.7300
Fax 510.574.4000
www.net.com

Via Federal Express

October 20, 2003

Ned Cavasian
160 Laurel Street
San Carlos, CA 94070

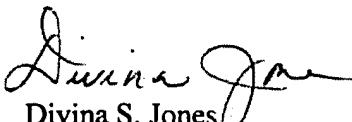
***Re: Method and Apparatus for Discarding A Prioritized
Fair Share of Traffic of Network Connections***

Dear Ned,

I hope all is well with you. Attached is a Declaration under Section 37 CFR 1.63 in connection with the above patent application. As you may know, James Scott was added as an inventor on this patent; therefore, new declarations are required by the USPTO.

We would appreciate it if you would review, sign and return the Declaration to me at your earliest convenience. I have also enclosed a postage-paid envelope for your use in returning it to me. Feel free to contact me at 510.574.4095 if you have any questions.

Sincerely,


Divina S. Jones
Paralegal

Enclosures

**DECLARATION (37 CFR 1.63) FOR UTILITY OR DESIGN APPLICATION
USING AN APPLICATION DATA SHEET (37 CFR 1.76)**

Title of Invention	METHOD AND APPARATUS FOR DISCARDING A PRIORITIZED FAIR SHARE OF TRAFFIC OF NETWORK CONNECTIONS
---------------------------	---

As the below named inventor(s), I/we declare that:

This declaration is directed to:

- ☐ The attached application, or
- ☒ Application No. 10/035,791, filed on October 18, 2001,
- ☐ as amended on _____ (if applicable);

I/we believe that I/we am/are the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought;

I/we have reviewed and understand the contents of the above-identified application, including the claims, as amended by any amendment specifically referred to above;

I/we acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me/us to be material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT International filing date of the continuation-in-part application.

All statements made herein of my/our own knowledge are true, all statements made herein on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and may jeopardize the validity of the application or any patent issuing thereon.

FULL NAME OF INVENTOR(S)

Inventor 1 Philip D. Cole Date: _____

Signature: _____ Citizen of: Australia

Inventor 2 Nils Ramon Marchant Date: _____

Signature: _____ Citizen of: Australia

Inventor 3 Mike Reynolds Date: _____

Signature: _____ Citizen of: Australia

Inventor 4 Edward G. Cavasian Date: _____

Signature: _____ Citizen of: United States

☒ Additional inventors are being named on form(s) attached hereto.

Attorney Docket No.: 010327-003300US
Client Ref. No.:

PTO/SB/01A (10-01)

Approved for use through 10/31/2002. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**DECLARATION (37 CFR 1.63) FOR UTILITY OR DESIGN APPLICATION
USING AN APPLICATION DATA SHEET (37 CFR 1.76) –
ADDITIONAL INVENTOR(S)
Supplemental Sheet
(Total of 2 forms are submitted.)**

FULL NAME OF INVENTOR(S)

Inventor 5: James Scott

Date:

Signature:

Citizen of: United States

Burden Hour Statement: This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. The information is used by the public to file (and the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 1 minute to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.
SF 1436953 v1

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AIRBILL # 4648 2445 998 6 ACCT # 16603 44 3X
RECIPIENT N. CAVASIAN

YOUR SHIPMENT IS BEING RETURNED FOR THE FOLOWING REASON:

- ☐ STANFORD WILL NOT RELEASE NEW ADDRESS FOR RECIPIENT
- ☐ MOVED, NO FORWARDING ADDRESS
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- ☐ REFUSED BY RECIPIENT
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A TELEPHONE NUMBER IS ALSO IMPORTANT. STANFORD
UNIVERSITY DOES NOT HAVE A CENTRAL RECEIVING DEPT
OR CONTACT NAME.
- ☐ LEFT SEVERAL MESSAGES, NO REPLY.
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- ☐ INTERNATIONAL EXPLANATION LETTER

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- Date: _____ Employee #: _____
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Thomson

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SHIP DATE: 270CT03
SYSTEM #0755298 / CPE2184
ACTUAL WGT: 1 lbs MAN-MGT
ACCOUNT #: 114245682

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FREMONT, CA 94555

REF: 4648 2445 9986/N DIVINA

BILL RECIPIENT



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Part #: 154254-354 RIT 02/02

Thomson

BEST AVAILABLE COPY

Subject: Address for Patent information

Date: Wed, 29 Oct 2003 16:22:55 -0800

From: "Angela Haldeman" <angela_haldeman@net.com>

To: <nedcl@yahoo.com>

CC: <divina_jones@net.com>

Hello Ned,

Divina Jones has some patent information that requires your signature, however the address we have on file for you is apparently incorrect, because the forms were sent back. The address we have on file is 160 Laurel in San Carlos. Is this correct?

If you could please provide us with your current address, we can get these forms sent to you as soon as possible.

If you have any questions, please feel free to contact myself or Divina Jones.

Regards,

Angela Haldeman

Administrative Assistant

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Petition, Assistant Commissioner for Patents, Washington, D.C. 20231 on July 15, 2004.

TOWNSEND and TOWNSEND and CREW LLP

By: 

Marina A. Lewis

~~\$ 0.00~~
PATENT
Attorney Docket No.: 010327-003300US

RECEIVED

JUL 23 2004

OFFICE OF PETITIONS #9

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

COLE, et al.

Application No.: 10/035,791

Filed: October 18, 2001

For: METHOD AND APPARATUS FOR
DISCARDING A PRIORITIZED FAIR
SHARE OF TRAFFIC OF NETWORK
CONNECTIONS

Art Unit: 2671

PETITION FOR FILING PATENT
APPLICATION UNDER 37 CFR § 1.47(a):
APPLICATION BY OTHER JOINT
INVENTORS WHEN ONE JOINT
INVENTOR REFUSES TO SIGN OR
CANNOT BE FOUND

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

INTRODUCTION

Philip D. Cole, Nils Ramon Marchant, Mike Reynolds, and James Scott, joint applicants of the above-referenced subject application, hereby submit this petition under 37 C.F.R. §1.47(a) in order to request permission to proceed with prosecution of the subject application on behalf of non-signing joint inventor Edward G. Cavasian.

11/16/2004 AKELLEY 00000010 201430 10035791

01 FC:1460 130.00 DA

RELEVANT FACTS

1. History of the Subject Parent Application

The subject application is a nonprovisional application filed on October 18, 2001. Network Equipment Technologies, Inc. ("N.E.T.") is the assignee of the subject application of which Philip D. Cole, Nils Ramon Marchant, Mike Reynolds, Edward G. Cavasian, and James Scott are joint inventors. (A Request to Correct Inventorship, adding Mr. Scott as a joint inventor, is being filed concurrently with this Petition.)

2. Joint Inventor Edward G. Cavasian Cannot be Reached to Assist with the Prosecution of this Application

On November 24, 2000, the non-signing joint inventor, Edward Cavasian, left the employment of N.E.T. In February 2003, assignee N.E.T. became aware of the inadvertent omission of James Scott as a joint inventor of the subject patent application and began to take necessary steps to add Mr. Scott as an inventor. In accordance with the requirements of CFR § 1.48(a) concerning Requests to Correct Inventorship, N.E.T. provided each inventor with a Declaration under CFR § 1.63 for re-execution. The relevant facts pertaining to N.E.T.'s efforts to locate Mr. Cavasian to sign the Section 1.63 Declaration are summarized below, and further explained in the Declaration by Network Equipment Technologies, Inc., submitted herewith as Exhibit A.

On July 10, 2003, Divina Jones, a paralegal with N.E.T., forwarded a copy of the Section 1.63 declaration to Mr. Cavasian via e-mail. A copy of the July 10, 2003 e-mail is attached as Exhibit B. No response was received. On October 20, 2003, Ms. Jones forwarded a second copy of the Section 1.63 Declaration to Mr. Cavasian at his last known address via Federal Express at the following address: 160 Laurel Street, San Carlos, California, 94070.

However, Federal Express was unable to deliver the package, claiming the addressee had moved. A copy of the October 20, 2003 correspondence and accompanying Federal Express airbill is attached as Exhibit C. On October 29, 2003, a third and final attempt was made to contact Mr. Cavasian to provide him with the Section 1.63 Declaration for his signature though a second e-mail address for Mr. Cavasian. A copy of the October 29, 2003 e-mail is attached as Exhibit D. Again, no response was received.

3. Joint Inventors May Sign the Declaration on Behalf of Edward Cavasian

A diligent effort has been made to locate Mr. Cavasian in order to obtain his signature on the requisite Declaration under CFR § 1.63, and such effort has proved unsuccessful in locating Mr. Cavasian. Therefore, petitioners respectfully submit that, as joint inventors of the subject patent application, petitioners are permitted under 37 C.F.R. §1.47(a) to execute the requisite Section 1.63 declaration on behalf of joint inventor, Edward Cavasian. The Section 1.63 declaration executed by Philip D. Cole, Nils Ramon Marchant, Mike Reynolds, and James Scott is submitted herewith as Exhibit E.

ADDITIONAL REMARKS

Required Fee

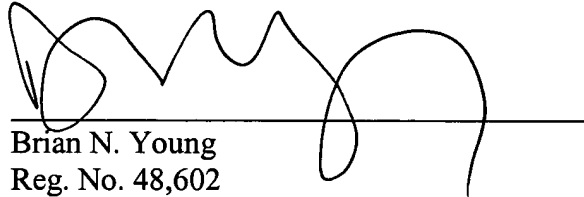
Please charge the fee required by this petition as set forth in §1.17(h), as well as any additional required fees, or credit any overpayment, to Deposit Account No. 20-1430.

CONCLUSION

It is respectfully submitted that the requirements for a petition under 37 C.F.R. §1.47(a) have been satisfied and, therefore, this petition should be granted. If there are any questions concerning the foregoing, please do not hesitate to contact the undersigned at (415) 576-0200.

Dated: July 15, 2004

Respectfully submitted,



Brian N. Young
Reg. No. 48,602

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